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ORDINANCE NO. 2009-013

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**AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
AMENDING SECTIONS 17-116 OF THE CODE OF LAWS
AND ORDINANCES; AS CODIFIED IN THE TOURIST
DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY,
ORDINANCE 95-30, AS AMENDED; PROVIDING FOR AN
AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO
AUTHORIZE THE EXPENDITURE OF ADDITIONAL
REVENUES FOR THE PROMOTION AND MARKETING OF
PALM BEACH COUNTY TOURISM AND FOR THE REPAIR
AND MAINTENANCE OF A PROFESSIONAL SPORTS
FACILITY AND CONVENTION CENTER; PROVIDING FOR
REPEAL OF LAWS IN CONFLICT; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE OF LAWS AND ORDINANCES; PROVIDING FOR
ENFORCEMENT; PROVIDING FOR APPLICABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the "Local Option Tourist Development Act" set forth in Section 125.0104, Florida Statutes, (hereinafter "statute"), authorizes the Board of County Commissioners (hereinafter "Board") to levy and impose a tourist development tax on the exercise within the County boundaries of the privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park or condominium for a term of six (6) months or less; and

WHEREAS, pursuant to the authority established in that statute, the Board enacted Ordinance 95-30 which has been amended from time to time and codified in Sections 17-113 through 17-116 of the Code of Laws and Ordinances relating to the Palm Beach County Government (hereinafter "Ordinance"), which levied a five (5) percent tourist development tax (also known as the "bed tax") for certain permissible uses as set forth in the statute; and

WHEREAS, the Ordinance established a Tourist Development Plan (hereinafter "Plan") which sets forth the specific uses and allocation of the revenues of the "bed tax"; and

WHEREAS, the TDC has determined that there is a need to infuse additional monies into the County's tourism promotional program ("promotional program") to support a multi-prong marketing campaign to promote increased usage of the County's tourist

1 accommodations, restaurants, attractions, sporting venues, retail outlets, cultural venues
2 and eco-tourism assets; and

3 **WHEREAS**, in addition, the Board determined that there is a need for certain repairs
4 and maintenance to be made to the Roger Dean Stadium ("Stadium") located in Jupiter,
5 Florida, and to the Palm Beach County Convention Center ("Convention Center") located in
6 West Palm Beach, Florida; and

7 **WHEREAS**, the Board hereby finds that the expenditure of revenues from the bed
8 tax for the promotional program and for the repairs and maintenance for the Stadium and
9 the Convention Center will advance, further and promote Palm Beach County tourism; and

10 **WHEREAS**, the Board wishes to amend the Plan to provide for the funding of such
11 projects from the operating reserve fund of the first (1st) percent of bed tax revenues.

12 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
13 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

14 Section 1. *Section 17-116. Tourist development plan* is hereby amended to read as
15 follows:

16 *Sec. 17-116. Tourist development plan.*

17 The tax revenues received pursuant to this article shall be used to fund the Palm
18 Beach County Tourist Development Plan which is hereby adopted as follows:

19

20 **PALM BEACH COUNTY TOURIST DEVELOPMENT PLAN**

21 (a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act,
22 this tourist development plan (hereinafter the "plan") establishes the uses of the tax
23 revenue by specific project or special use as authorized in Florida Statutes, § 125.0104(5).
24 The plan also includes the expense allocation by the percentage for each specific project
25 or special use.

26 (b) *Use and allocation of tax revenues.* The following categories of use of each
27 individual percent of the bed tax are set forth below in subsection (1) with the percentage of
28 the total amount of yearly revenue to be expended for, or credited to, each category,
29 subject to the provisions of subsection 3 of this section 17-116, as set forth in subsection
30 (2):

1 (1) *Categories of use:*

2 a. Category A: Promote and advertise county tourism in the state and
3 nationally and internationally, including the provision of a convention and visitors
4 bureau.

5 b. Category B: Provide for cultural and fine and non-fine arts
6 entertainment, festivals, programs, and activities which directly promote county
7 tourism.

8 c. Category C: Provide for beach improvement, maintenance,
9 renourishment, restoration, and erosion control with an emphasis on dune
10 restoration where possible.

11 d. Category D: Provide for film and television marketing and
12 development activities which directly promote county tourism.

13 e. Category E: Provide for special major projects and events which
14 directly further, advance, improve, promote and generate county tourism: To be
15 selected and funded pursuant to subsection 3 of this section.

16 f. Category F: Provide for the operation and maintenance of a
17 convention center. To be funded pursuant to subsection 3 of this section.

18 g. Category G: Attract, stimulate, market, and execute sports events and
19 activities in order to promote the county nationally and internationally as a sports
20 destination, including the financing of the construction of Blum Stadium, a sports
21 stadium all which directly promote county tourism.

22 h. Category H: Construct, extend, enlarge, remodel, repair, and/or
23 improve a convention center.

24 i. Category I: Provide payment on:

25 1. debt service relating to bonds issued to finance the
26 construction of professional sports franchise facilities and a
27 convention center;

28 2. the planning and design costs incurred prior to the issuance of
29 such bonds; and

1 3. the operation and maintenance cost of a convention center for
2 ten (10) years.

3

4 (2) Percent of yearly revenue:

5

Category	1 st percentage Tax	2 nd percentage tax	3 rd percentage tax	4 th percentage tax	5 th percentage tax	Total 2 nd ,3 rd and 5 th
A		16.05	16.05		20.37	52.47
B		6.89	6.89		8.73	22.51
C		7.05	7.05			14.10
D		1.20	1.20		1.52	3.92
E	See subsection (c)(1) of this section 17-116					
F	See subsection (c)(1) of this section 17-116					
G		2.14	2.14		2.72	7.00
H	100					
I				100		

6

7 (c) *Special Allocations:*

8 (1) *Allocations for convention center operations and maintenance and special
9 major projects and events.*

10 Notwithstanding the percentages allocating the initial three (3) percent of the
11 bed tax revenues to the various categories of uses as set forth above in subsection (b),
12 each year a total of two hundred fifty thousand dollars (\$250,000.00) of the second and
13 third percent of bed tax revenues shall be allocated for the operation and maintenance
14 costs of a convention center (Category F) and a total of one hundred fifty thousand dollars
15 (\$150,000.00) of the second, third and fifth percent of the bed tax revenues shall be
16 transferred into an account (Category E) which shall be reserved for special major projects
17 and events which may arise from time to time offering the county the opportunity to further,
18 advance, improve, promote, and generate county tourism. The TDC shall authorize
19 expenditures for such projects upon review and assurance that the project or event is a use
20 authorized under *Florida Statutes, § 125.0104(5)*, and is consistent with the plan. The
21 Category E reserve account shall not exceed one million dollars (\$1,000,000.00). In the
22 event the account balance does exceed one million dollars (\$1,000,000.00), the excess
23

1 revenues shall revert to Categories A, B, C, D, and G in the percentages allocated in
2 subsection (b).

3 (2) *Special allocations from the operating reserve fund of the (1st) percent tax:*
4 Notwithstanding the allocation of the first (1st) percent of bed tax revenues to the use
5 provided for in Category H:

6 (a) Three million dollars (\$3,000,000.) of the operating reserve fund of the
7 first (1st) percent of the bed tax shall be immediately allocated for the promotion and
8 marketing of Palm Beach County tourism; and

9 (b) Ten million dollars (\$10,000,000.) of the operating reserve fund of the
10 first (1st) percent of the bed tax shall be transferred into a reserve account to pay the
11 costs for repairs and maintenance of a convention center and a professional sports
12 stadium which funds may be expended upon approval in the amounts set forth in a
13 budget approved by the Board.

14 (c) Upon fulfillment of the funding obligations set forth above in
15 subsections 2 (a) and (b), revenues from the first (1st) percent of the bed tax shall
16 be allocated for Category H uses.

17 (d) *Sports franchise facilities and convention center.* A tourist development plan for
18 professional sports franchise facilities and/or a convention center must be approved by
19 resolution of the board for the purpose of advancing, promoting, and furthering county
20 tourism. The facilities and/or convention center identified in the plan(s) may be amended
21 by resolution of the board. The levy of the fourth cent shall automatically expire upon the
22 retirement of all bonds issued to pay the debt service for the financing of a professional
23 sports franchise facilities and/or a convention center.

24 (e) *Retirement of debt for construction of Blum Stadium.* The provision of Category G of
25 subsection (b) of this section authorizing the use of revenues to finance the construction of
26 a sports stadium shall sunset upon the retirement of all debt incurred to finance the
27 construction of Blum Stadium.

28 (f) *Administrative expenses.* There shall be an annual amount established for
29 administrative expenses which shall not exceed nine (9) percent of the total budget.
30 Administrative expenses shall include administrative staff salaries, benefits, administrative

1 travel, indirect costs, and all costs of furnishing and operating administrative offices
2 whether paid directly or by reimbursement, except that funds for contractual services from
3 the administrative budget may be expended upon the express approval of the council.

4 (g) *Annual review of plan.* The council and the board shall annually review the plan.
5 On or before September 1 of each year the council shall forward to the board its
6 recommendation for revisions, if any, to the plan. The board shall review the plan and
7 determine the most effective use of the revenues derived from the tax.

8 (h) *Amendment of plan.* Except as provided in *Florida Statutes*, § 125.0104, *Florida*
9 *Statutes*, to the contrary, the above tourist development plan may not be substantially
10 amended except by ordinance enacted by an affirmative vote of a majority plus one (1)
11 additional member of the board of county commissioners.

12 **Section 2. Repeal of Laws in Conflict.**

13 All local laws and ordinances in conflict with any provisions of this Ordinance are
14 hereby repealed to the extent of such conflict.

15 **Section 3. Savings Clause:**

16 Notwithstanding anything to the contrary, all provisions of Palm Beach County
17 Code Section 17.111 through 17.116, codifying Palm Beach County Ordinance No. 95-
18 30, as amended, are specifically preserved and remain in full force and effect for the
19 limited purpose of enforcing any alleged violations of said Code which occurred prior to
20 its repeal or amendment.

21 **Section 4. Severability:**

22 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is
23 for any reason held by a Court of competent jurisdiction to be unconstitutional,
24 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

25 **Section 5. Inclusion in the Code of Laws and Ordinances:**

26 The provisions of this Ordinance shall become and be made a part of the Palm
27 Beach County Code. The sections of this Ordinance may be renumbered or relettered
28 to accomplish such, and the word "ordinance" may be changed to "section," "article," or
29 other appropriate word.

1 **Section 6. Enforcement:**

2 This Ordinance is enforceable by all means provided by law. Additionally, the
3 County may choose to enforce this Ordinance by seeking injunctive relief in the Circuit
4 Court of Palm Beach County.

5 **Section 7. Penalty:**

6 Any violation of any portion of this Ordinance shall be punishable as provided by
7 law.

8 **Section 8. Captions:**

9 The captions, section headings, and section designations used in this Ordinance
10 are for convenience only and shall have no effect on the interpretation of the provisions
11 of this Ordinance.

12 **Section 9. Effective Date:**

13 The provisions of this Ordinance shall become effective upon filing with the
14 Department of State.

15

16 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm
17 Beach County, Florida, on this the 2nd day of June, 2009.

18

19 SHARON R. BOCK,
20 CLERK & COMPTROLLER
21 PALM BEACH COUNTY, FLORIDA

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By: Judith Cossline
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: John F. Koons
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Maureen Cullin
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 4th day of

June, 2009.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller certify
this to be a true copy of the original
filed in my office of PALM BEACH COUNTY, FL on JUN 10 2009

date: 6-10-2009
By: Judith Cossline
Deputy Clerk